

***United States Court of Appeals
for the Second Circuit***



**APPELLANT'S
BRIEF**

75-4217

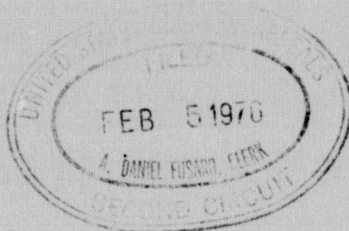
UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

-----X
:
FABIO HECTOR TOBON-GOMEZ,
:
Petitioner,
:
-v.- Docket No. 75-4217
:
IMMIGRATION AND NATURALIZATION
SERVICE,
:
Respondent.
:
-----X

APPELLANT'S BRIEF + Appendix

B
P/S

CARDWELL & CARDWELL
Attorneys at Law
108 Oak Street
Hartford, Conn. 06106



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-v.-

IMMIGRATION AND NATURALIZATION
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APPELLANT'S BRIEF

Docket No. 75-4217

I

STATEMENT OF THE CASE

This case comes to the Court by a Petition for Review of an order of deportation, under the provisions of Sec. 106 of the Immigration & Nationality Act.

On February 4, 1975, at Hartford, Connecticut, a deportation hearing was held, and the Appellant, Tobon, was found deportable under the provisions of Sec. 242 of the Act. (admin. Record #7.) Tobon appealed to the Board of Immigration Appeals (Admin. Record #5) which appeal was dismissed by the Board on April 9, 1975 (Admin. Record #3.) A Warrant of Deportation issued on May 10, 1975 (Admin. Record #1.)

Tobon, is a citizen and native of Columbia, admitted to the United States as a visitor for pleasure on March 14, 1971. He was authorized to remain in the United States until September 13, 1971. (Admin. Record #11.) On July 10, 1973, Tobon married

Leticia Genoveva Silva, at Hartford, Connecticut. (Appellant's Brief, Appendix A). Mrs. Tobon is an alien, lawfully admitted for permanent residence in the United States. (Appellant's Brief, Appendix B). On August 13, 1974, Mrs. Tobon submitted to the Immigration & Naturalization Service (hereinafter referred to as INS) an Application for Verification of Lawful Permanent Residence of an Alien (I-550) (Appellant's Brief, Appendix C) which was approved by INS, and forwarded to the U.S. Consul at Bogota, Columbia on January 8, 1975. (Appellant's Brief, Appendix B). Tobon was assigned a priority date of August 15, 1974, (Appellant's Brief, Appendix D), the date upon which the original I-550 reached INS.

There was, at the time of the deportation hearing, and there is presently, a waiting period of approximately two and one-half years between the establishment of a priority date and the availability of a visa number under which a visa may be issued to the alien. (Appellant's Brief, Appendix E.)

II

STATEMENT OF ISSUES

IS A FEDERAL REGULATION WHICH DISCRIMINATES AGAINST PERSONS EXEMPTED FROM A CERTAIN STATUTORY VISA REQUIREMENT, AND WHICH THEREFORE FAVORS THOSE PERSONS NOT EXEMPTED FROM THAT REQUIREMENT, UNCONSTITUTIONALLY DISCRIMINATORY?

III

ARGUMENT

A

While it is admitted that Congress has extremely wide latitude to legislate with regard to aliens (Kliendienst v. Mandel, 408 U.S. 753, Harisiades v. Shaughnessy, 342 U.S. 580, The Chinese Exclusion Case, 130 U.S. 561, Dunn v. I.N.S., 499 F2d. 856), still that plenary power is subject to Constitutional limits (Mow Sun Wing v. Hampton, 500 F2d. 1031) and in particular those protections of the Fourteenth Amendment relating to due process and to equal protection, even though the presence of the alien within the United States is illegal. (Bolanos v. Kiley, 509 F2d. 1023.)

B

Congress has provided a plan of Immigration whereby, in general, aliens are admissible to the United States unless specifically made ineligible or excluded by law. (Immigration & Nationality Act.) Sec. 212 of the Act deals with certain categories of aliens who are ineligible or excluded. Among those, in particular, are aliens seeking to enter the U.S.

for the purpose of performing skilled or unskilled labor. (Sec. 212 (a) (14), the Act.) However, that basis of ineligibility and excusions does not apply where the Secretary of Labor has certified to the Secretary of State and to the Attorney General that there are (generally speaking) insufficient workers to perform that labor, and that the admission of the alien will not adversely affect the U.S. Labor market. Thus, if the alien obtains a certification, he is not excludible.

The same statutory section applies to natives of either hemisphere. However, for natives of the Western Hemisphere, an exception is made: Parents, spouses and children of U.S. citizens or permanent resident aliens are exempted from the labor certification provisions entirely. (Sec. 212 (a) (14), the Act.)

Thus, in a limited sense, we may restate the statute as it applies to Western Hemisphere aliens and this case as, "Aliens who are not married to permanent residents are ineligible to receive a visa unless they have received a labor certification."

C

What, then, are the administrative mechanics involved? In the case of the applicant for labor certification, a document is submitted to the state Department of Labor, and then endorsed (let us assume favorably) by the federal Department of Labor, who reports its action back to the local office of INS. The approved certification is forwarded to the appropriate Consul

General for action. Since only 120,000 aliens are permitted to enter the United States each year from Western Hemisphere, and since there are more aliens awaiting visas than available visa numbers, a priority date -- the date the alien was permitted to "get in line" -- is assigned to the alien's visa registration. In the above example, that priority date is the date of approval of the labor certification. (22 C.F.R. 42.62 (b) (1)).

For the alien who is not subject to these requirements, the procedure is to submit form I-550 to the local INS office. This is a request to INS that they verify the permanent resident status of the resident alien spouse. A search of INS records is made, and if it appears that the spouse was in fact lawfully admitted for permanent residence, the approved I-550 is forwarded to the Consul General. The priority date assigned, under 22 C.F.R. 42.62 (b) (2), is the date the I-550 was submitted to INS.

D

It is this distinction which forms the basis of Tobon's argument: That where the statute prescribes the attainment of a certain status -- having been certified -- the applicant's priority date is the date he attained that status. But, where the statute is not applicable at all because of the attainment of a certain status -- e.g. marriage to a permanent resident -- it is not the date of attainment of that status which applies, but some arbitrary date of application for verification of the spouse's status. In the former case, the status did not

◇ exist until the certification was granted; in the latter, the status pre-existed, but merely had not been registered.

E

In a recent case, the U.S. District Court for the Eastern District of New York has said, "Unless the immigration laws in question are wholly devoid of any conceivable rational purpose, or are fundamentally aimed at achieving a goal unrelated to the regulation of immigration, they are not unconstitutional encroachments on the right to equal protection of the laws." (Fiallo v. Levi, ____ F. Supp. ____, USDC ENY, 11/28/75). The imposition of a registration requirement on those not excludible under the provisions of Sec. 212 (a) (14) is clearly unrelated to the regulation of immigration. It is related only to a rule of housekeeping; one which says that one alien may get in line when he attains a particular status, but that another alien may get in line only after having attained a status, and then after having had that status registered. It should be noted that it is not Tobon's position that the procedures need be changed; only that the priority date subsequently established must be the date of the marriage; the date the alien attained the status; just as it is the date of the labor certificate, the date that the alien attained the status.

F

◇ Even so, how does this affect Tobon with regard to the deportation he faces? Simply stated, had he been given the

priority date to which he should have been entitled, July, 1973; he would have been nearly eligible for a visa at the time of his deportation hearing, February, 1975. It is the policy of the Immigration Service at Hartford to grant extended voluntary departure to those who can show that a visa will be available to them within sixty days (OI 242.10). Had Tobon received a proper priority date, Tobon could have applied for that relief. As it is, he was not then apparently eligible, and the Service was precluded, under that provision, from considering such relief.

IV

RELIEF REQUESTED

The appellant, therefore, requests an order of this Court declaring 22 C.F.R. 42.62 (b) (2) unconstitutional under the facts of this case; an order to the United States Consul General at Bogota, Columbia, that a priority date of July 10, 1973 be granted to Fabio Tobon, and an order vacating all prior proceedings, remanding the case to the District Director, INS, Hartford, with instructions to proceed in accordance with what applications may be made to him by Tobon within thirty days hereafter, said Tobon having a priority date of July 10, 1973.

In the event that the relief sought above is denied, the appellant requests that this Court reinstate the voluntary departure accorded to him by both the Immigration Judge at his Deportation Hearing, and by the Board of Immigration Appeals, for a period of thirty days from the date of the Court's decision on this appeal.

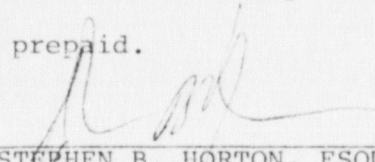
Respectfully submitted,

By 

STEPHEN B. HORTON, ESQUIRE
Attorney for the Petitioner

C E R T I F I C A T I O N

This is to certify that I have served a copy of the foregoing Appellant's Brief upon Thomas J. Cahill, United States Attorney for the Southern District of New York, Attorney for Respondent, by forwarding a copy, postage prepaid.


STEPHEN B. HORTON, ESQUIRE
Cardwell & Cardwell
108 Oak Street
Hartford, Connecticut 06106

APPENDIX A

Public Health Statistics Section — Hartford, Connecticut 06115, U. S. A.

MARRIAGE LICENSE: TOWN OF HARTFORD

1. GROOM'S NAME <u>Fabio Hector Tobon</u>			11. BRIDE'S NAME <u>Leticia Genoveva Silva</u>		
2. (a) DATE OF BIRTH <u>6-20-1946</u>	(b) AGE <u>27</u>	3. RACE <u>Colombian</u>	12. (a) DATE OF BIRTH <u>5-6-1952</u>	(b) AGE <u>21</u>	13. RACE <u>Colombian</u>
4. OCCUPATION <u>Electronics</u>			14. OCCUPATION <u>None</u>		
5. BIRTHPLACE: (TOWN) (STATE OR COUNTRY) <u>Bello, Colombia, So. America</u>			15. BIRTHPLACE: (TOWN) (STATE OR COUNTRY) <u>Barranquilla, Colombia, So. Amer</u>		
6. RESIDENCE <u>990 Capitol Avenue Hartford, Connecticut</u>			16. RESIDENCE <u>62 Main Street Hartford, Connecticut</u>		
7. PREVIOUS (a) MARITAL STATUS <u>Never</u> <input checked="" type="checkbox"/> <u>Married</u> <input type="checkbox"/> <u>Death</u> <input type="checkbox"/> <u>Divorce</u> <input type="checkbox"/> <u>Annulment</u>			17. PREVIOUS (a) MARITAL STATUS <u>Never</u> <input checked="" type="checkbox"/> <u>Married</u> <input type="checkbox"/> <u>Death</u> <input type="checkbox"/> <u>Divorce</u> <input type="checkbox"/> <u>Annulment</u>		
8. FATHER'S NAME <u>Jesus Tobon</u>			18. FATHER'S NAME <u>Nicolas Silva</u>		
9. MOTHER'S MAIDEN NAME <u>Rosa Elena Gomez</u>			19. MOTHER'S MAIDEN NAME <u>Petro Pallares</u>		
10. SUPERVISION OR CONTROL OF GUARDIAN OR CONSERVATOR <u>No</u>			20. SUPERVISION OR CONTROL OF GUARDIAN OR CONSERVATOR <u>No</u>		

We Fabio Hector Tobon AND Leticia Genoveva Silva THE PARTIES NAMED IN THIS MARRIAGE LICENSE, DO SOLEMNLY SWEAR THAT THE STATEMENTS THEREIN MADE ARE TRUE.

SWORN TO BEFORE ME THIS 6th DAY OF July 19 73 SIGNED Fabio Hector Tobon ASS't REGISTRAR
 SWORN TO BEFORE ME THIS 6th DAY OF July 19 73 SIGNED Leticia Genoveva Silva ASS't REGISTRAR

THIS CERTIFIES THAT THE ABOVE-NAMED PARTIES HAVE COMPLIED WITH THE LAWS OF CONNECTICUT RELATING TO A MARRIAGE LICENSE, AND ANY PERSON AUTHORIZED TO CELEBRATE MARRIAGE MAY JOIN THE ABOVE-NAMED IN MARRIAGE WITHIN THE TOWN OF HARTFORD

THIS LICENSE MUST BE USED ON OR BEFORE September 9th 19 73 NOT GOOD AFTER THAT DATE.

DATE ISSUED July 10th 19 73 ATTEST John T. O'Brien ASS't REGISTRAR

MARRIAGE CERTIFICATE

I HEREBY CERTIFY THAT Mr. Fabio Hector Tobon

Miss Leticia Genoveva Silva

LEGALLY JOINED IN MARRIAGE BY ME AT

HARTFORD

THIS TENTH

DAY OF JULY 19 73 SIGNED

John T. O'Brien
John T. O'Brien
OFFICIAL CAPACITY Justice of the Peace

ADDRESS 112 Bond St.

THIS CERTIFICATE RECEIVED FOR RECORD ON

JUL 10 1973

BY Vinton Chance REGISTRAR

Form V.S. 5 12-72 20M

S E A L

I certify that this is a true copy of the certificate as recorded in this office

Attest: Ann E. Hazel Ass't Registrar of Vital Statistics

Dated July 16, 1973 City of HARTFORD, CONNECTICUT

NOT GOOD WITHOUT SEAL OF THE HARTFORD HEALTH DEPARTMENT

TYPE OR PRINT PLAINLY WITH BLACK, UNFADING INK THIS IS A PERMANENT RECORD. EVERY ITEM SHOULD BE CAREFULLY SUPPLIED.

APPENDIX B

CARDWELL & CARDWELL
ATTORNEYS AT LAW
106 OAK STREET
HARTFORD, CONNECTICUT 06106

NICHOLAS P. CARDWELL
M. DONALD CARDWELL
STEPHEN B. HORTON

AREA CODE 203
278-6370

October 23, 1974

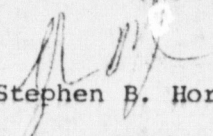
Mr. James Smith, District Director
Immigration & Naturalization Service
135 High Street
Hartford, Connecticut

Re: Fabio Tobon
Leticia Tobon

Dear Mr. Smith:

We are resubmitting Form I-550 with corrections per your request.

Very truly yours,


Stephen B. Horton

SBH/krd

Enc. Form I-550

*Approved and forwarded to American
Consul, Bogota, Colombia 1-2-75*

UNITED STATES DEPARTMENT OF JUSTICE
Immigration and Naturalization Service
135 High Street
Hartford, Connecticut 06104

August 13, 1974

U. S. Immigration & Naturalization Service
135 High Street
Hartford, Connecticut

Re: Fabio Hector Tobon Gomez
Leticia Tobon

Gentlemen:

We are enclosing herewith Form I-550 together with Form G-28 on behalf of our clients, Fabio and Leticia Tobon. Also enclosed is a certified copy of their marriage certificate, and a check in the amount of \$3.00.

Very truly yours,

* Stephen B. Horton

SDH/krd

Enc. Form I-550
Form G-28
Certified copy of Marriage Certificate
Check for \$3.00

U.S. GOVERNMENT PRINTING OFFICE: 1972-477-809

UNITED STATES DEPARTMENT OF JUSTICE
IMMIGRATION AND NATURALIZATION SERVICEFORM APPROVED
OMB NO. 48-00000APPLICATION FOR VERIFICATION OF
LAWFUL PERMANENT RESIDENCE
OF AN ALIEN

DATE FILED

FEE STAMP

In connection with immigrant visa application(s) of my
relative(s) listed in item 15 below, I request that the
American Consul at Bogota, Columbia

(City and Country abroad)

be furnished a verification of my lawful admission into the United

States for permanent residence. I have read and fully understand the instructions appearing on the reverse of this form concerning the desirability of
attaching documentary evidence to prove relationship if the immigrant visa applicant is my parent, spouse, or unmarried child under the age of 21 years.

1. MY NAME IS (Last, in CAPS) (First) (Middle) TOBON, LETICIA		2. MY ALIEN REGISTRATION NUMBER IS A 30 671 996
3. MAILING ADDRESS IN U.S. (Number and Street) (City) (State) (Zip Code) c/o Cardwell & Cardwell, 108 Oak Street, Hartford, Conn. 06106		
4. PERMANENT ADDRESS IN THE U.S. (Number and Street) (City) (State) (Zip Code) Same		
5. MY DATE OF BIRTH IS (Month) (Day) (Year) 5/6/52	6. MY PLACE OF BIRTH WAS (City) (Country) Barramquilla, Columbia	7. I AM NOW A CITIZEN OF (Country) Columbia
8. MY FATHER'S NAME Nicolas Silva		9. MY MOTHER'S FULL MAIDEN NAME Petra Pallares

DATA RELATING TO MY ADMISSION INTO THE UNITED STATES FOR PERMANENT RESIDENCE OR MY ADJUSTMENT OF STATUS TO PERMANENT RESIDENT	
10. NAME USED WHEN ADMITTED FOR PERMANENT RESIDENCE OR ADJUSTMENT OF STATUS TO PERMANENT RESIDENT (Last) (First) (Middle) Silva-Pallares Leticia Genoveva	11. MY U.S. PORT OF ARRIVAL WAS Miami
12. MY DATE OF ARRIVAL OR ADJUSTMENT WAS (Month) (Day) (Year) AND THE MEANS OF ARRIVAL WAS (Show Name of Vessel or Airline and Flight No., etc.) 6/7/70 Pan Am	
13. NAME AND ADDRESS OF PERSON IN THE U.S. TO WHOM I WAS DESTINED Carmen Salive, Windsor, Connecticut	
14. I first obtained an immigrant visa at a United States consular office abroad on (date) (Location). Barramquilla, Columbia April 1, 1970	
At that time, I <input type="checkbox"/> was <input checked="" type="checkbox"/> was not married.	
15. Including my present marriage I have been married <u>1</u> times. The name of my present spouse is: Fabio Hector Tobon whom I was married on <u>7/10/73</u> at Hartford, Connecticut (date) (location) <input type="checkbox"/> a U.S. Citizen <input type="checkbox"/> a permanent resident <input checked="" type="checkbox"/> neither of these. If married more than one time, list names of previous spouse(s) and places and dates of marriage and explain how marriage(s) were terminated.	

16. THE PERSONS IN WHOSE BEHALF SUCH INFORMATION IS REQUESTED ARE AS FOLLOWS:	
FULL NAME Fabio Hector Tobon Gomez	DATE AND PLACE OF BIRTH 6/20/46 Bello (Ant.) Columbia
RELATIONSHIP Husband	ADDRESS c/o Cardwell & Cardwell, 108 Oak Street, Hartford, Conn.
FULL NAME	DATE AND PLACE OF BIRTH
RELATIONSHIP	ADDRESS
FULL NAME	DATE AND PLACE OF BIRTH
RELATIONSHIP	ADDRESS

NOT TO BE FILLED OUT BY APPLICANT

The Secretary of State is hereby informed that the applicant named
above ☐ was ☐ was not lawfully admitted for permanent residence

☐ His "A" file shows date of first admission for permanent residence as _____, symbol _____

☐ issuing post and date of issuance of IV _____

☐ Single; ☐ Married; ☐ Divorced; ☐ Widowed. File ☐ does ☐ does not establish relationship between applicant

☐ Verification made from Form I-151 personally presented by applicant showing lawful permanent residence of:

INS OFFICE:

Date:

Verifier:

FORM I-151, REV. 2-73

APPENDIX D

DSL-869
7/73

Sección Consular
Bogotá, Colombia

MAR 4 - 1975

Estimado señor:

Su solicitud para visa de inmigrante ha sido registrada en la siguiente forma: Tobon-Gómez, Fabio Hector.

FAVOR IGNORAR LOS PARRAFOS QUE NO ESTEN MARCADOS.

- ☒ Se ha determinado que los requisitos de la Sección 212(a)(14) del Acta de Inmigración y Naturalización, reformada, no son aplicables en su caso.
- ☒ Esta oficina ha recibido el formato I-550 o I-130 que fue presentada al Departamento de Inmigración por su pariente en los Estados Unidos.
- ☐ Esta oficina ha recibido una certificación de trabajo, debidamente aprobada, la cual fue presentada a la Oficina Local Estatal de Empleos por su presunto patrón.
- ☐ Esta oficina ha aprobado la solicitud de certificación de trabajo que usted presentó recientemente.
- ☐ Esta oficina ha recibido, debidamente aprobada por el Departamento de Trabajo de los Estados Unidos, la solicitud de certificación de trabajo que usted presentó.

Al establecer su clasificación como un solicitante que reúne los requisitos, usted ha adquirido una fecha de prioridad de 31/15/74. Debido a la limitación numérica anual de 120.000 recientemente impuesta para inmigrantes de los países del Hemisferio Occidental, actualmente no hay cupos disponibles para personas nacidas en estos países y cuya fecha de prioridad está después de DEC 1 - 1972.

Mientras no se pueda establecer un plazo definido del período de espera, el solicitante tendrá que esperar por un tiempo considerable. Esta oficina le notificará lo más pronto posible para que se prepare a llenar su solicitud formal para visa. Usted debe informarnos por escrito cualquier cambio de dirección o de estado civil.

- ☒ SIRVASE COMPLETAR Y DEVOLVER INMEDIATAMENTE a esta oficina la Forma DSP-70 adjunta, Datos Biograficos, para consecución de visa.

Atentamente,

CC
Vernon D. McAninch
Consul de los
Estados Unidos de América



U.S. DEPARTMENT OF STATE

BUREAU OF SECURITY AND CONSULAR AFFAIRS

VISA OFFICE

WASHINGTON D.C.

Number 98
VOLUME II

AIR PRIORITY

AVAILABILITY OF IMMIGRANT VISA NUMBERS FOR FEBRUARY 1976

1. This bulletin relates to the allocation of immigrant visa numbers for use during February. Consular officers are required to report to the Department of State the priority dates of all documentarily qualified visa applicants each month. The Immigration Service similarly reports the dates of all qualified applicants for adjustment of status. To the extent possible under the numerical limitations, allocations are made for all such demand for visa numbers received by January 12th in the chronological order of the priority dates reported. If there is more demand than can be satisfied within the statutory or regulatory limits, the classification or foreign state or dependent area in which demand is excessive is deemed to be oversubscribed. The cut-off date for an oversubscribed category is the priority date of the first applicant who could not be reached within the statutory or regulatory limits. Only applicants who have a priority date earlier than that date may be issued visas.

2. Allocations of visa numbers for persons born in areas other than the independent countries of the Western Hemisphere are governed by the provisions of Section 203(a) of the Immigration and Nationality Act, as amended, which prescribes preference categories as follows:

- First preference (unmarried sons and daughters of U.S. citizens): 20% of the over-all limitation of 170,000 in any fiscal year;
- Second preference (spouses and unmarried sons and daughters of aliens lawfully admitted for permanent residence): 20% of the over-all limitation, plus any numbers not required for first preference;
- Third preference (members of the professions or persons of exceptional ability in the sciences and arts): 10% of the over-all limitation;
- Fourth preference (married sons and daughters of U.S. citizens): 10% of the over-all limitation, plus any numbers not required by the first three preference categories;
- Fifth preference (brothers and sisters of U.S. citizens): 24% of the over-all limitation, plus any numbers not required by the first four preference categories;
- Sixth preference (skilled and unskilled workers in short supply): 10% of the over-all limitation;
- Seventh preference (refugees): 6% of the over-all limitation;
- Nonpreference (other immigrants): numbers not used by the seven preference categories.

3. A prerequisite for nonpreference classification is a labor certification under Section 212(a)(14) or satisfactory evidence that the provisions of that section do not apply to the alien's case. Since all beneficiaries of approved third and sixth preference petitions are required to have a labor certification in support of the preference petition, such applicants are thereby entitled also to nonpreference classification. Therefore, if visa numbers are not available for them within their preference classes and if nonpreference visa numbers are available for their foreign state or dependent area, they may apply for nonpreference visas. A nonpreference priority date, once established, is retained by the alien even though he may meet the provisions of Section 212(a)(14) at the time of formal visa application by some means other than that by which he originally established that date.

APPENDIX E

-2-

4. Allocations of visa numbers for persons born in independent countries of the Western Hemisphere are subject to the 120,000 annual limitation prescribed in Section 21(e) of the Act of October 3, 1965. There are no preference classes nor foreign state limitations prescribed for applicants born in countries subject to this provision. A Western Hemisphere priority date, once established is retained by the alien even though he meets the provisions of Section 212(a)(14) at the time of formal visa application by some means other than that by which he originally established that date.

The spouse or child of an immigrant described in any of the categories listed above may be granted the same status as the spouse or parent he is accompanying or following to join.

5. Under the provisions of Section 203(b) of the Immigration and Nationality Act, numbers for applicants born in areas other than independent countries of the Western Hemisphere must be made available in the order of the preference classes. Moreover, within such classes under Section 203(c) of the Act, they must be made available in the order of the filing dates of the petitions according preference status. In certain foreign states and dependent areas the demand in the higher preferences exceeds the foreign state and dependent area limitations of 20,000 and 200 per annum, respectively. In these areas, numbers are not available for applicants in the lower preferences or the nonpreference class until demand in the higher preference has been satisfied.

6. A date listed under any category indicates that the category is oversubscribed. (See paragraph 1.) As allocations for following months will be based on reports of applicants who have subsequently become documentarily qualified, it is not possible to predict whether these dates will change appreciably in the near future. "C" means current, i.e., that numbers were available for all qualified applicants under the category so noted at the time the allocations were made. "U" means unavailable, i.e., that no numbers were available for applicants under the category so noted.

FOREIGN STATE ALL FOREIGN STATES IN EASTERN HEMI- SPHERE AND THEIR DEPENDENT AREAS EXCEPT THOSE LISTED BELOW	PREFERENCE							NONPREF- ERENCE
	1ST	2ND	3RD	4TH	5TH	6TH	7TH	
	C	C	6-1-75	C	C	C	C	C
CHINA	C	C	6-1-75	C	C	C	C	U
KOREA	C	C	6-1-75	C	C	C	C	1-1-74
PHILIPPINES	C	C	6-22-70	U	U	U	U	U
ANTIGUA	C	3-15-75	U	U	U	U	U	U
BELIZE	C	9-15-75	U	U	U	U	U	U
BRITISH VIRGIN IS.	C	9-1-75	U	U	U	U	U	U
DOMINICA	C	C	6-1-75	C	8-15-73	U	U	U
HONG KONG	C	8-1-73	U	U	U	U	U	U
MONTSERRAT	C	C	6-1-75	C	C	8-1-73	U	U
ST. CHRISTOPHER	C	9-1-74	U	U	U	U	U	U
ST. LUCIA	C	C	6-1-75	C	4-1-75	U	U	U
ST. VINCENT	C	C	6-1-75	C	U	U	U	U
MACAO	C	C	6-1-75	C	1-1-75	U	U	U

Numbers allocated for February issuance under the Western Hemisphere limitation were for applicants with priority dates earlier than September 15, 1973.

SCA/VO-Jan. 12, 1976